

REMARKS

Summary

Claims 1-6, 10-16 and 18 stand in this application. Claims 7, 8, 9 and 17 were previously canceled without prejudice. Claims 1, 11, 15 and 18 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 11, 15 and 18 in order to facilitate prosecution on the merits.

35 U.S.C. § 103

At page 3, paragraph 4 of the Office Action claims 1-3 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US 2005/0152314 to Sun et al. ("Sun") in view of WO 01/37474 to Andre ("Andre") and further in view of US 2004/0161058 to Ebiko et al. ("Ebiko"). At page 5, paragraph 5 of the Office Action claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sun in view of Andre in view of Ebiko and further in view of US 2004/0125235 to Kim et al. ("Kim"). At page 5, paragraph 6 of the Office Action claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sun in view of Andre in view of Ebiko and further in view of US 2004/0142665 to Papathanasion ("Papathanasion"). At page 6, paragraph 7 of the Office Action claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sun in view of Andre in view of Ebiko and further in view of US 6,757,272 to Abeta et al. ("Abeta"). At page 6, paragraph 8 of the Office Action claims

11-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sun in view of Andre. Applicant respectfully traverses the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 1-6, 10-16 and 18. Therefore claims 1-6, 10-16 and 18 define over the cited references whether taken alone or in combination. For example, claim 1 has been amended to recite the following language, in relevant part:

generate a replica of a transmitted symbol for each of a plurality of subcarriers...

As correctly noted in the Office Action, the above-recited language is not disclosed by the combination of Sun and Andre. According to the Office Action, the missing language is disclosed in the abstract of Ebiko. Applicant respectfully disagrees.

Applicant respectfully submits that Ebiko fails to disclose the missing language of the claimed subject matter. For example, Ebiko at the given cite, in relevant part, teaches “An equalizer (130) generates a replica of the received signal and performs equalization, and eliminates a delayed wave component from the received signal.” By way of contrast, the claimed subject matter teaches “generate a replica of a transmitted symbol for each of a plurality of subcarriers...” Applicant respectfully submits that this is different than the above recited teaching of Ebiko.

Applicant respectfully submits that he has been unable to locate any teaching in Ebiko directed to generating a replica of a transmitted symbol for each of a plurality of subcarriers as recited in claim 1. Simply generating a replica of a received signal, as arguably taught by Ebiko, is clearly different than generating a replica of a transmitted symbol for each of a plurality of subcarriers as recited in claim 1. Therefore, Ebiko fails to disclose, teach or suggest the missing language. Consequently, Sun, Andre and Ebiko, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1. Applicant respectfully submits that Kim, Papathanasion and Abeta also fail to teach the above recited missing language.

For at least these reasons, Applicant submits that claim 1 is patentable over the cited references, whether taken alone or in combination. In addition, claims 11, 15 and 18 have been amended to recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 11, 15 and 18 are not obvious and are

patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claim 1, 11, 15 and 18. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 2-6, 10, 12-14 and 16 that depend from claims 1, 11 and 15 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

For at least the above reasons, Applicant submits that claims 1-6, 10-16 and 18 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-6, 10-16 and 18 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Appl. No. 10/750,064
Response Dated April 29, 2008
Reply to Office Action of January 29, 2008

Docket No.: 1020.P16742
Examiner: File, Erin M.
TC/A.U. 2611

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: April 29, 2008

KACVINSKY LLC
C/O Intellevate
P.O. Box 52050
Minneapolis, MN 55402
(724) 933-5529